



MEMORANDUM

TO: Mayor Gregg and Members of Town Council
FROM: Joseph M. Cronin, Town Administrator
SUBJECT: Text Amendment Allowing the Use of Electric Pedal Assist Bicycles
MEETING DATE: May 26, 2020

During its meeting on February 25, 2020, Town Council gave first reading approval to Ordinance 2020-05, which was intended to add a new section regarding the use of electric pedal-assist bicycles (e-bikes) on public pathways owned and maintained by the town.

Sec. 28-1 of the Town Code adopted, by reference, the South Carolina Uniform Traffic Code, as contained in Title 56, Chapter 5, of the S.C. Code. At the time the ordinance was first presented to Council, the Uniform Traffic Code did not contain any provisions expressly related to e-bikes. The purpose of Ordinance 2020-05 was to treat "Class 1" e-bikes (which contain an electric motor of less than 750 watts or 1 hp and which have a maximum speed of 20 mph) as bicycles when operating on the town's pathways.

Act 114 amended Sec. 56-1-10 to add the following definition:

"'Electric-assist bicycles' and 'bicycles with helper motors' means low-speed electrically assisted bicycles with two or three wheels, each having fully operable pedals and an electric motor of no more than 750 watts, or one horsepower, and a top motor-powered speed of less than twenty miles an hour when operated by a rider weighing one hundred seventy pounds on a paved level surface, that meet the requirements of the Federal Consumer Product Code provided in 16 C.F.R., Part 1512, and that operate in a manner such that the electric motor disengages or ceases to function when their brakes are applied or the rider stops pedaling. Manufacturers and distributors of electric-assist bicycles shall apply a label that is affixed permanently, in a prominent location, to each electric-assist bicycle, indicating its wattage and maximum electrically assisted speed. The owner or user of an electric-assist bicycle shall not remove or tamper with the label. If a user tampers with or modifies an electric-assist bicycle, changing the speed capability, he must replace the label indicating the vehicle's wattage or horsepower. Electric-assist bicycles and bicycles with helper motors are not mopeds."

Act 114 also created a new section, SC Code Sec. 56-5-3520, which states: **"Bicyclists operating bicycles with helper motors, as defined in Section 56-1-10, are subject to all statutory provisions applicable to bicyclists, as provided in Section 56-5-3420."**

Based on the General Assembly's action, the town's pending ordinance has become moot, and Class 1 e-bicycles are now allowed wherever bicycles are allowed, including public roads and recreational pathways, and under the same rules applicable to bicycles.

Staff Recommendation

Staff recommends that Ordinance 2020-05 be **TABLED**.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J. Cronin", written in a cursive style.

Joseph M. Cronin
Town Administrator

South Carolina General Assembly
123rd Session, 2019-2020
A114, R116, H3174

STATUS INFORMATION

General Bill

Sponsors: Reps. Elliott, Tallon, G.R. Smith, Taylor, Cogswell, Dillard, Norrell, Felder, Daning and Hixon

Introduced in the House on January 8, 2019

Introduced in the Senate on April 10, 2019

Last Amended on January 15, 2020

Passed by the General Assembly on January 21, 2020

Governor's Action: February 3, 2020, Signed

Summary: Bicycles, electric-assisted

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
12/18/2018	House	Prefiled
12/18/2018	House	Referred to Committee on Education and Public Works
1/8/2019	House	Introduced and read first time (House Journal-page 117)
1/8/2019	House	Referred to Committee on Education and Public Works (House Journal-page 117)
1/15/2019	House	Member(s) request name added as sponsor: Felder
1/17/2019	House	Member(s) request name added as sponsor: Daning, Hixon
4/3/2019	House	Committee report: Favorable with amendment Education and Public Works (House Journal-page 4)
4/4/2019		Scrivener's error corrected
4/9/2019	House	Amended (House Journal-page 87)
4/9/2019	House	Read second time (House Journal-page 87)
4/9/2019	House	Roll call Yeas-107 Nays-1 (House Journal-page 88)
4/10/2019	House	Read third time and sent to Senate (House Journal-page 11)
4/10/2019	Senate	Introduced and read first time (Senate Journal-page 13)
4/10/2019	Senate	Referred to Committee on Transportation (Senate Journal-page 13)
4/10/2019		Scrivener's error corrected
4/25/2019	Senate	Committee report: Favorable with amendment Transportation (Senate Journal-page 4)
5/8/2019	Senate	Committee Amendment Adopted (Senate Journal-page 85)
5/8/2019	Senate	Amended (Senate Journal-page 85)
5/8/2019	Senate	Read second time (Senate Journal-page 85)
5/8/2019	Senate	Roll call Ayes-42 Nays-1 (Senate Journal-page 85)
5/9/2019	Senate	Read third time and returned to House with amendments

		(Senate Journal-page 13)
5/9/2019	House	Debate adjourned on amendments
1/15/2020	House	Senate amendment amended (House Journal-page 137)
1/15/2020	House	Returned to Senate with amendments (House Journal-page 137)
1/21/2020	Senate	Concurred in House amendment and enrolled (Senate Journal-page 18)
1/21/2020	Senate	Roll call Ayes-42 Nays-0 (Senate Journal-page 18)
1/29/2020		Ratified R 116 (Senate Journal-page 36)
2/3/2020		Signed By Governor
2/5/2020		Effective date 02/03/20
2/7/2020		Act No. 114

(A114, R116, H3174)

AN ACT TO AMEND SECTION 56-1-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CERTAIN TERMS AND THEIR DEFINITIONS ASSOCIATED WITH THE POWERS AND DUTIES OF THE DEPARTMENT OF MOTOR VEHICLES, SO AS TO PROVIDE DEFINITIONS FOR THE TERMS "ELECTRIC-ASSIST BICYCLES" AND "BICYCLES WITH HELPER MOTORS"; AND BY ADDING SECTION 56-5-3520 SO AS TO PROVIDE THAT BICYCLISTS OPERATING BICYCLES WITH HELPER MOTORS ARE SUBJECT TO ALL STATUTORY PROVISIONS APPLICABLE TO BICYCLISTS.

Be it enacted by the General Assembly of the State of South Carolina:

Department of Motor Vehicles, definitions, electric-assist bicycles, bicycles with helper motors

SECTION 1. Section 56-1-10 of the 1976 Code is amended by adding the following appropriately numbered item at the end to read:

"() 'Electric-assist bicycles' and 'bicycles with helper motors' means low-speed electrically assisted bicycles with two or three wheels, each having fully operable pedals and an electric motor of no more than 750 watts, or one horsepower, and a top motor-powered speed of less than twenty miles an hour when operated by a rider weighing one hundred seventy pounds on a paved level surface, that meet the requirements of the Federal Consumer Product Code provided in 16 C.F.R., Part 1512, and that operate in a manner such that the electric motor disengages or ceases to function when their brakes are applied or the rider stops pedaling. Manufacturers and distributors of electric-assist bicycles shall apply a label that is affixed permanently, in a prominent location, to each electric-assist bicycle, indicating its wattage and maximum electrically assisted speed. The owner or user of an electric-assist bicycle shall not remove or tamper with the label. If a user tampers with or modifies an electric-assist bicycle, changing the speed capability, he must replace the label indicating the vehicle's wattage or horsepower. Electric-assist bicycles and bicycles with helper motors are not mopeds."

Applicability

SECTION 2. Article 27, Chapter 5, Title 56 of the 1976 Code is amended by adding:

"Section 56-5-3520. Bicyclists operating bicycles with helper motors, as defined in Section 56-1-10, are subject to all statutory provisions applicable to bicyclists, as provided in Section 56-5-3420."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 29th day of January, 2020.

Approved the 3rd day of February, 2020.

S.C. Code of Laws, 1976, as Amended

TITLE 56
Motor Vehicles

CHAPTER 5
Uniform Act Regulating Traffic on Highways

ARTICLE 27
Bicyclists and Users of Play Vehicles; Rights and Duties

SECTION 56-5-3410. Applicability of article to bicycles.

The provisions of this article are applicable to bicycles whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles, subject to those exceptions stated in this article.

SECTION 56-5-3420. Rights and duties of bicyclists generally.

A person riding a bicycle upon a roadway must be granted all of the rights and is subject to all of the duties applicable to the driver of a vehicle by this chapter, except as to special provisions in this article and except as to those provisions of this chapter which by their nature can have no application.

SECTION 56-5-3425. Bicycle lanes.

- (A) For purposes of this section, "bicycle lane" means a portion of the roadway or a paved lane separated from the roadway that has been designated by striping, pavement markings, and signage for the preferential or exclusive use of bicyclists.
- (B) Whenever a bicycle lane has been provided adjacent to a roadway, operators of:
 - (1) motor vehicles may not block the bicycle lane to oncoming bicycle traffic and shall yield to a bicyclist in the bicycle lane before entering or crossing the lane; and
 - (2) bicycles are required to ride in the bicycle lane except when necessary to pass another person riding a bicycle or to avoid an obstruction in the bicycle lane. However, bicyclists may ride on the roadway when there is only an adjacent recreational bicycle path available instead of a bicycle lane.

SECTION 56-5-3430. Riding on roadways and bicycle paths.

- (A) Except as provided in subsection (B), every bicyclist operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable. A bicyclist may, but is not required to, ride on the shoulder of the roadway in order to comply with the requirements of this subsection.

- (B) A bicyclist may ride in a lane other than the right-hand lane if only one lane is available that permits the bicyclist to continue on his intended route.
- (C) When operating a bicycle upon a roadway, a bicyclist must exercise due care when passing a standing vehicle or one proceeding in the same direction.
- (D) Bicyclists riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

SECTION 56-5-3435. Driver to maintain safe operating distance between motor vehicle and bicycle.

A driver of a motor vehicle must at all times maintain a safe operating distance between the motor vehicle and a bicycle.

SECTION 56-5-3440. Manner of riding bicycles; number of persons which may be carried.

A bicyclist propelling a bicycle may not ride other than upon or astride a permanent and regular seat attached to the bicycle. No bicycle may be used to carry more persons at one time than the number for which it is designed and equipped.

SECTION 56-5-3445. Harassing or throwing object at person riding bicycle; penalty.

It is unlawful to harass, taunt, or maliciously throw an object at or in the direction of any person riding a bicycle. A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred fifty dollars or imprisoned not more than thirty days, or both.

SECTION 56-5-3450. Clinging to vehicles prohibited.

A person riding upon any bicycle, coaster, roller skates, sled, or toy vehicle may not attach it or them or himself to a vehicle upon a roadway.

SECTION 56-5-3460. Carrying articles.

A bicyclist operating a bicycle may not carry any package, bundle, or article that prevents the rider from keeping at least one hand upon the handle bars.

SECTION 56-5-3470. Lamps and reflectors on bicycle.

A bicycle when in use at nighttime must be equipped with a lamp on the front which must emit a white light visible from a distance of at least five hundred feet to the front and with a red reflector on the rear that must be visible from all distances from fifty feet to three hundred feet to the rear when directly in front of the lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred feet to the rear may be used in addition to the red reflector.

SECTION 56-5-3480. Signaling turns; penalty.

- (A) (1) A bicyclist shall indicate a right turn by extending the left arm upward, by raising the left arm to the square, or by extending the right arm horizontally to the right.
- (2) A bicyclist shall indicate a left turn by extending the left arm horizontally.
- (3) A bicyclist shall indicate stopping or decreasing speed by extending the left arm or the right arm downward.
- (B) A bicyclist is not required to give signals provided for in subsection (A) continuously if the hand or arm is needed to control the bicycle.
- (C) A violation of this section is punishable by a fine of twenty-five dollars.

SECTION 56-5-3490. Brake on bicycle; penalty.

A bicycle must be equipped with a brake that will enable the bicyclist to make the braked wheels skid on dry, level, clean pavement. A violation of this section is punishable by a fine of twenty-five dollars.

SECTION 56-5-3500. Violations of article; penalties.

- (A) Except as otherwise provided, in the absence of another violation being cited, a violation of this article by the driver of a motor vehicle is subject to a civil fine of up to one hundred dollars unless a bicyclist is injured as a result of the violation.
- (B) In the absence of another violation being cited, a person driving a motor vehicle who violates a provision of this article and the violation is the proximate cause of a:
 - (1) minor injury to a bicyclist, must be assessed a civil fine of up to five hundred dollars; or
 - (2) great bodily injury, as defined in Section 56-5-2945, to a bicyclist, must be assessed a civil fine of not more than one thousand dollars.

SECTION 56-5-3515. Authorized police patrol bicycles; operating as emergency vehicles.

- (A) An authorized police patrol bicycle used as a part of a police bicycle patrol may exercise the privileges of an emergency vehicle provided in Section 56-5-760.
- (B) An authorized police patrol bicycle may be equipped with a siren or the officer may utilize a whistle in the performance of his duties, or both.
- (C) Notwithstanding the provisions of Section 56-5-760(C), an authorized police patrol bicycle acting as an emergency vehicle is entitled to the exemptions of an authorized emergency vehicle if it makes use of an audible signal meeting the requirements of Section 56-5-4970 or visual signals meeting the requirements of Section 56-5-4700.

Section 56-5-3520. [NEW]

Bicyclists operating bicycles with helper motors, as defined in Section 56-1-10, are subject to all statutory provisions applicable to bicyclists, as provided in Section 56-5-3420.

TOWN OF SEABROOK ISLAND

ORDINANCE NO. 2020-05

ADOPTED _____

AN ORDINANCE AMENDING THE TOWN CODE FOR THE TOWN OF SEABROOK ISLAND, SOUTH CAROLINA; CHAPTER 28, TRAFFIC AND MOTOR VEHICLES; ARTICLE I, IN GENERAL; SO AS TO ADD A NEW SECTION RELATING TO THE USE OF ELECTRIC PEDAL-ASSIST BICYCLES ON BICYCLE PATHWAYS WITHIN THE TOWN OF SEABROOK ISLAND

WHEREAS, pursuant to Section 28-1 of the Town Code for the Town of Seabrook Island (the “Town Code”), the Town has adopted, by reference, the Uniform Act Regulating Traffic on Highways, as contained within Title 56, Chapter 5, of the South Carolina Code of Laws, 1976, as amended; and

WHEREAS, the Uniform Act Regulating Traffic on Highways does not contain provisions specific to a certain class of vehicles commonly referred to as “electric pedal-assist bicycles;” and

WHEREAS, the Seabrook Island Property Owners Association recently amended its Rules and Regulations to permit the use of certain types of electric pedal-assist bicycles along private roads and pathways within SIPOA’s jurisdiction; and

WHEREAS, the Mayor and Council of the Town of Seabrook Island wish to amend Chapter 28, Article I, of the Town Code so as to allow the use of certain types of electric pedal-assist bicycles on public roads and bicycle pathways within the Town; and

WHEREAS, the Town Council is authorized to amend Chapter 28, Article I, pursuant to Section 1-9 (“Amendments to Code”) of the Town Code; and

WHEREAS, a public hearing on the proposed amendments was advertised and held on Tuesday, March 24, 2020, with public comments duly noted; and

WHEREAS, the Town Council has thoroughly considered this matter and believes the proposed amendments to the Town Code are in the best interest of the Town;

NOW, THEREFORE, pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, **BE IT ORDAINED BY THE MAYOR AND COUNCIL FOR THE TOWN OF SEABROOK ISLAND:**

SECTION I. Amending Chapter 28, Article I, of the Town Code. The Town Code for the Town of Seabrook Island, South Carolina; Chapter 28, Traffic and Motor Vehicles; Article I, In General; is hereby amended to read as follows:

Chapter 28 – TRAFFIC AND MOTOR VEHICLES

ARTICLE I. – IN GENERAL

Sec. 28-1. – State law adopted.

Unless otherwise specifically covered by this chapter, all of the provisions and requirements of the general law of the state regulating traffic on highways as contained in S.C. Code 1976, title 56, chapter 5, as now in force or as hereafter amended and insofar as such provisions can have application within the town, are adopted and incorporated by reference as if fully set forth in this chapter. All persons within the town shall strictly comply with all of the regulations imposed by this chapter, when applicable.

Sec. 28-2. – Electric pedal-assist bicycles.

(a) Notwithstanding the requirements of Sec. 28-1, class 1 electric pedal-assist bicycles shall be permitted along any public road or pathway within the town where bicycles are permitted and shall be subject to the same general provisions and requirements applicable to bicycles.

(b) For purposes of this section, the following definitions shall apply:

(1) “Bicycle” shall mean a device propelled solely by pedals, operated by one or more persons, and having two or more wheels, except children’s tricycles.

(2) “Low speed electric bicycle” shall mean a two- or three-wheeled vehicle with fully operable pedals and an electric motor of less than 750 watts (1 h.p.), whose maximum speed on a paved level surface, when powered solely by such a motor while ridden by an operator who weighs 170 pounds, is less than 20 miles per hour.

(3) “Class 1 electric pedal-assist bicycle” shall mean a low speed electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.

Sec. 28-~~23~~. - Enforcement; penalty.

The town shall administer and enforce the provisions of this chapter directly and/or by contract with the county. A violation of any of the provisions of this chapter shall be a misdemeanor, and shall be punished by a fine and/or other penalty as authorized in section 1-7.

Secs. 28-~~34~~—28-21. - Reserved.

SECTION 2. Severability.

If any section, subsection, paragraph, clause, or provision of this ordinance shall be deemed to be unconstitutional, unenforceable, or otherwise invalid by the final decision of a court of competent jurisdiction, it shall be construed to have been the legislative intent of Town Council to pass said ordinance without such unconstitutional provision, and the validity of all remaining sections,

subsections, paragraphs, clauses, or provisions of said ordinance shall not be affected thereby. If said ordinance, or any provision thereof, is held by the final decision of a court of competent jurisdiction to be inapplicable to any person, group of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property or circumstances.

SECTION 3. Conflicting Ordinances Repealed.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. Effective Date.

This ordinance shall be effective from and after the date of adoption.

SIGNED AND SEALED this ____ day of _____, 2020, having been duly adopted by the Town Council for the Town of Seabrook Island on the ____ day of _____, 2020.

First Reading: February 25, 2020
Public Hearing: March 24, 2020
Second Reading: March 24, 2020

TOWN OF SEABROOK ISLAND

John Gregg, Mayor

ATTEST

Faye Allbritton, Town Clerk